

**New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
June 14, 2011
11-07**

Present: Timothy J. Connors, Chairman
Warren W. Leary, Secretary
Michael J. Gatsas, Member
Lynn M. Presby, Member
Bernard A. Streeter, member
Anthony B. Urban, Member
Paul M. Kelley, Director
Charles J. Saia, Legal Coordinator
Steve Johnston, Supervisor Gaming Operations
Karl Janotta, Gaming Enforcement Investigator
Billie Jean Arseneault, Gaming/Licensing Supervisor
William Dewhurst, Sr. Auditor
Shawn Graham, Auditor
Linda Glaser, Auditor
Linda Darrow, Administrative Secretary

In Attendance: Rick Newman, Ed Callahan, Dick Bouley, Curtis Barry, Dan Decoteau, Jaime Timbas, Glenn McCrory, George Roberts, Averill Cate, Richard Bedrosian, Mark Moehler, Shawn Flanagan, Les Nishi, Jeffrey Bouchard, David Provencher, Christopher Watts and others.

The Chairman called the meeting to order at 11:00 a.m. and asked for the scheduled hearings to begin.

Mr. Jeffrey Bouchard Hearing

The Chairman opened the appeal hearing for Mr. Jeffrey Bouchard relative to the denial of a Secondary Game Operator License for Games of Chance. Mr. Bouchard was not in attendance. The hearing was closed at 11:01 a.m. (Mr. Bouchard arrived later and his hearing was held – see below)

Mr. Christopher V. Watts Hearing

At 11:02 a.m., the Chairman opened the hearing for Mr. Christopher V. Watts relative to the previous hearing determination for the denial of a Secondary Game Operator License for Games of Chance. The chairman swore in those who were to testify:

Mr. Christopher V. Watts
Ms. Billie Jean Arseneault-Gaming/Licensing Supervisor
Mr. Chuck Saia-Legal Coordinator

After testimony was given, the Chairman asked if anyone else had any testimony or evidence to offer. There was none. The Chairman closed the hearing at 11:04 a.m. On a motion

by Commissioner Urban seconded by Commissioner Streeter and based on all evidence received and all testimony heard, unanimously voted for the following:

Decision & Order
Appeal of Mr. Christopher V. Watts
Denial of Secondary Game Operator License for Games of Chance

The Racing and Charitable Gaming Commission (RCGC) states that this is a continuation of the prior appeal hearing, which was convened on April 26, 2011, for the appellant, Christopher V. Watts. In its Order of the April 26, 2011 hearing, the Commission withheld a determination of Mr. Watts' eligibility and fitness for licensure.

Additional Findings of Fact, to be incorporated and made part of the record of the April 26, 2011 appeal hearing.

1. On or about May 31, 2011, the appellant, Mr. Christopher V. Watts presented to the RCGC two (2) State of New Hampshire, Judicial Branch, Certificates of Annulment (herein #1 and #2).
2. Certificate of Annulment #1 referenced Concord District Court, Docket # 429-2003-CR-00602. It certified that the Justice of the Concord District Court annulled any record of conviction, sentence, arrest or charge emanating from the Class A Misdemeanor conviction as noted on Mr. Watts' Criminal History Record.
3. Certificate of Annulment #2 referenced Concord District Court, Docket # 429-2003-CR-00603. It certified that the Justice of the Concord District Court annulled any record of conviction, sentence, arrest or charge emanating from the Class A Misdemeanor conviction as noted on Mr. Watts' Criminal History Record.
4. On June 3, 2011, after reviewing the Certificates of Annulment in conjunction with Mr. Watts' Criminal History Record, Legal Coordinator Saia notified Mr. Watts of the scheduled "Notice of Hearing Appeal/Determination via certified mail, return receipt requested, to be held on June 14, 2011.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b VI, "...no person who has in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past shall operate a game of chance licensed under this chapter, ...".
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. Based on all of the testimony presented and information received, the Commission concludes that the issuance of a 2011 secondary game operator license would not be appropriate in this instance.
4. The Commission concludes that each license application is separate and distinct from every other application and a decision on an application is based on the testimony presented and information received regarding that specific application.
5. Based on the testimony given at the April 26, 2011 and June 14, 2011 appeal hearings and information received, the Commission concludes, pursuant to RSA 287-D:8, II, that

Christopher V. Watts is not fit to be associated with games of chance, and therefore, he is not eligible for a secondary game operator license.

Order

The Commission orders that the denial of Mr. Christopher v. Watts' 2011 application for a secondary game operator license is upheld.

The Commission orders that Mr. Christopher V. Watts shall not be eligible to reapply for a secondary game operator license, within ninety (90) days from the date of this Order.

So Ordered.

Mr. David Provencher Hearing

At 11:05 a.m., the Chairman opened the hearing for Mr. David Provencher relative to the denial of a Secondary Game Operator License for Games of Chance. The chairman swore in those who were to testify:

Mr. David Provencher

Ms. Billie Jean Arseneault-Gaming/Licensing Supervisor and Mr. Chuck Saia-Legal Coordinator were previously sworn in.

After testimony was given, the Chairman asked if anyone else had any testimony or evidence to offer. There was none. The Chairman closed the hearing at 11:09 a.m. On a motion by Commissioner Streeter seconded by Commissioner Leary and based on all evidence received and all testimony heard, unanimously voted for the following:

Decision & Order

Appeal of Mr. David Provencher

Denial of Secondary Game Operator License for Games of Chance

Findings of Fact

1. On May 19, 2011, the RCGC received a Secondary Game Operator License Application from David Joseph Provencher, 219 Beech Street, Manchester, NH 03103. The application requested employment as a dealer for Rockingham Gaming, LLC.
2. Thereafter, Gaming Licensing Supervisor Billie Jean Arseneault reviewed Mr. Provencher's application for licensure.
3. Mr. Provencher noted on his application, at page 2, section 3, item A. that he had been convicted of a felony or misdemeanor as requested on the application.
4. Mr. Provencher signed his application on May 11, 2011, and certified that the information which he provided was true, accurate and complete.
5. Pursuant to a duly executed (by Mr. Provencher) authorization for the release of criminal history record, the RCGC received a copy of Mr. Provencher's Criminal History Record.
6. Supervisor Arseneault reviewed Mr. Provencher's Criminal History Record.
7. Supervisor Arseneault noted that Mr. Provencher's Criminal History revealed that on October 6, 2010, he received a conviction for a Class A Misdemeanor, to wit: Driving

After Revocation or Suspension. The Justice of the Manchester District Court dispensed a Guilty conviction and a 6 month House of Correction Sentence, suspended for 2 years pending Good Behavior, and a \$500.00 fine.

8. On May 26, 2011, after reviewing the application in conjunction with the applicable RSA's and the Criminal History Record, Supervisor Arseneault denied Mr. Provencher's application and notified him of the same via certified mail, return receipt requested. Supervisor Arseneault notified Mr. Provencher of his appellate rights and enclosed an appeal form.
9. Mr. Provencher filed his Appeal Form with the RCGC on May 31, 2011.
10. In his Appeal Form, Mr. Provencher stated that he has no other criminal charges on his record. He stated that he "forgot to pay a ticket and did not know his license was under suspension". He has not been employed since December, 2010, and would appreciate a chance to work in the gaming industry.
11. On or about June 3, 2011, Legal Coordinator Saia spoke to Mr. Provencher and informed him of his Appeal Hearing. Further, Mr. Saia, on June 3, 2011, notified Mr. Provencher of his appeal hearing date (June 14, 2011) via certified mail, return receipt requested.
12. On June 14, 2011, Mr. Provencher provided testimony at the hearing stating, among other things:
 - a. He was aware that he may have an attorney represent his interests before the Appeal Hearing; however he desired to proceed without a lawyer.
 - b. He was aware that the audio portion of the Appeal Hearing was being "tape recorded".
 - c. His conviction was based upon a "Driving After Suspension" matter.
 - d. He did not realize that his driver's license had been suspended.
 - e. He takes full responsibility for the conviction, and he knows that it was his own fault.
 - f. He has held many jobs wherein his responsibilities included the handling of money and he has had full control "of the safes".
 - g. He has always been regarded as a trustworthy individual.
 - h. He is currently serving a suspended sentence term, with applicable terms of probation for two (2) years.
 - i. His driver's license is still under suspension, (since February, 2010), as he has not possessed the requisite funds to pay for reinstatement.
 - j. For the foregoing reasons, he is asking the Commission to reconsider the initial denial of his application.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b VI, "...no person who has in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past shall operate a game of chance licensed under this chapter, ...".
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. Based on testimony given and information received, the Commission rendered a decision regarding Mr. Provencher's Appeal of Denial for a Secondary Game Operator Games of Chance License

4. The Commission concludes that each license application/appeal hearing, is separate and distinct from every other application/appeal hearing, and a decision on an application/appeal hearing is based on the information and/or testimony received regarding that specific application/appeal hearing.
5. Based on testimony given and information received, the Commission determines that the issuance of a 2011 Secondary Game Operator Licenses would be appropriate in this instance.
6. Based on testimony given and information received, the RCGC concludes, pursuant to RSA 287-D:8, II, that Mr. David J. Provencher is eligible and fit for licensure and further determines that he may be associated with games of chance, as a secondary game operator.

Order

The Racing & Charitable Gaming Commission orders that the denial of Mr. David J. Provencher's Secondary Game Operator Application for a Game Operator License is **REVERSED**.

So Ordered.

NE Gaming & Consulting LLC and Dover Main Street Inc. Hearing

At 11:10 a.m., the Chairman opened the hearing on the NE Gaming & Consulting LLC and Dover Main Street Inc. matter. Legal Coordinator Saia requested the matter be remanded back to staff as a dialogue is ongoing between himself and Attorney Moehler, who represents Dover Main Street, Inc. As discussion has also commenced between the Agency and Mr. Bedrosian, on behalf of NE Gaming and Consulting, Mr. Saia desires to include Mr. Bedrosian in the discussions with staff. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to remand back to staff. An update will be given at the July meeting.

Mr. Jeffrey Bouchard Hearing

At 11:12 a.m., the Chairman opened the hearing for Mr. Jeffrey Bouchard relative to the denial of a Secondary Game Operator License for Games of Chance. The chairman swore in those who were to testify:

Mr. Jeffrey Bouchard
Ms. Billie Jean Arseneault-Gaming/Licensing Supervisor and Mr. Chuck Saia-Legal Coordinator were previously sworn in.

After testimony was given, the Chairman asked if anyone else had any testimony or evidence to offer. There was none. The Chairman closed the hearing at 11:18 a.m. On a motion by Commissioner Streeter seconded by Commissioner Urban and based on all evidence received and all testimony heard, unanimously voted for the following:

Decision & Order Appeal of Mr. Jeffrey Bouchard Denial of Secondary Game Operator License for Games of Chance

Findings of Fact

1. On April 8, 2011, the RCGC received a Secondary Game Operator License Application from Jeffrey J. Bouchard, DOB 10/25/1984, 402 Pickering Road, Rochester, NH 03839. The application requested employment as a dealer for Oceanfront Gaming, Inc.
2. Thereafter, Gaming Licensing Supervisor Billie Jean Arseneault reviewed Mr. Bouchard's application for licensure.
3. Mr. Bouchard noted on his application, at page 2, section 3, item A, that he had not been convicted of any of the felonies or misdemeanors (class A or class B) as requested on the application. Mr. Bouchard also noted on his application, at page 2, section 3, item E, that he had never been "...questioned about his participation in any crime...or drug offense".
4. Mr. Bouchard signed his application on March 26, 2011, and certified that the information which he provided was true, accurate and complete.
5. Pursuant to a duly executed (by Mr. Bouchard) authorization for the release of criminal history record, the RCGC received a copy of Mr. Bouchard's Federal Bureau of Investigation Record of Conviction(s).
6. Supervisor Arseneault reviewed Mr. Bouchard's FBI Record of Conviction(s).
7. Supervisor Arseneault noted that Mr. Bouchard's FBI Record of Conviction(s) revealed, that on May 19, 2005, he was arrested in the State of Maine for "Unlawful Possession of Scheduled Drugs" and subsequently received a conviction for the same. The Justice of the Superior Court of Penobscot County dispensed a Guilty conviction and an 11 month sentence, 30 days of which was to be served incarcerated, with the balance of the sentence to be suspended for 1 year, with applicable terms of probation.
8. On April 26, 2011, Supervisor Arseneault, received correspondence from Mr. Bouchard, which included a State of Maine, "Motion for Termination of Probation". Among other things, the document revealed that the Justice of the Penobscot Superior Court allowed the motion and terminated Mr. Bouchard's probation, as all terms had been successfully complied with. The document also revealed that Mr. Bouchard's conviction was predicated upon a State of Maine Class D Crime.
9. Mr. Bouchard does not possess either a Class A or Class B misdemeanor conviction in the State of New Hampshire, or any other jurisdiction (according to the records as provided by the FBI).
10. Mr. Bouchard does possess a conviction in the State of Maine for a Class D crime.
11. Mr. Bouchard's conviction in the State of Maine is considered a Class D Crime, (which is punishable by up to 364 days incarceration). A conviction for a Class A Misdemeanor in New Hampshire is punishable by up to 1 year incarceration.
12. On April 28, 2011, after reviewing the application in conjunction with the FBI Record of Conviction(s), Supervisor Arseneault denied Mr. Bouchard's application and notified him of the same via certified mail, return receipt requested. Supervisor Arseneault notified Mr. Bouchard of his appellate rights and enclosed an appeal form. Ms. Arseneault's denial was based in the conclusion that a State of Maine Class D conviction was analogous to a State of New Hampshire Class A misdemeanor conviction.
13. Mr. Bouchard filed his Appeal Form with the RCGC on May 6, 2011.
14. In his Appeal Form, Mr. Bouchard stated that his conviction results from a "Class D misdemeanor from Maine that is six years old," and he is "in the process of getting it expunged".
15. On May 23, 2011 Legal Coordinator Saia spoke to Mr. Bouchard and informed him of his Appeal Hearing, scheduled for June 14, 2011. Further, on the same date, Mr. Saia, notified Mr. Bouchard of his appeal hearing date via certified mail, return receipt requested.

16. On June 14, 2011, Mr. Bouchard provided testimony at the hearing stating, among other things:
- a. He was aware that he may have an attorney represent his interests before the Appeal Hearing; however he desired to proceed without a lawyer.
 - b. He was aware that the audio portion of the Appeal Hearing was being “tape recorded”.
 - c. In and around the time of his 2005 conviction, his doctor had prescribed him Vicodin to treat the symptoms associated with an accident.
 - d. His 2005 conviction in the State of Maine is the result of his selling of some of the Vicodin to a fellow student.
 - e. The Maine DEA’s office offered him a plea bargain, which he accepted to resolve the matter, as he never wanted to contest the matter.
 - f. He served 30 days in the House of Correction, with 11 months incarceration suspended for 1 year, along with terms of probation.
 - g. He regards his actions and the subsequent conviction as the “worst mistake of his life”. He was subsequently “kicked out of school” and he is just now getting his life back together.
 - h. He is currently enrolled in college as an English major, and is attempting to expunge his Maine conviction.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b VI, “...no person who has in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past shall operate a game of chance licensed under this chapter, ...”.
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. Based on testimony given and information received, the Commission rendered a decision regarding Mr. Bouchard’s Appeal of Denial for a Secondary Game Operator Games of Chance License
4. The Commission concludes that each license application/appeal hearing, is separate and distinct from every other application/appeal hearing, and a decision on an application/appeal hearing is based on the information and/or testimony received regarding that specific application/appeal hearing.
5. Based on testimony given and information received, the Commission determines that the issuance of a 2011 Secondary Game Operator Licenses would be appropriate in this instance.
6. Based on testimony given and information received, the RCGC concludes, pursuant to RSA 287-D:8, II, that Mr. Jeffrey J. Bouchard is eligible and fit for licensure and further determines that he may be associated with games of chance, as a secondary game operator.

Order

The Racing & Charitable Gaming Commission orders that the denial of Mr. Jeffrey J. Bouchard’s Secondary Game Operator Application for a Game Operator License is
REVERSED.

So Ordered.

On a motion by Commissioner Urban seconded by Commissioner Streeter and unanimously voted to approve and place on file the Commission minutes dated May 16, 2011.

On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to accept and place on file the racing & charitable gaming statistics for the fiscal period ending June 2, 2011.

The Games of Chance warning letters/late financials spreadsheets were reviewed. Director Kelley stated all items were up to date. On a motion by Commissioner Urban, seconded by Commissioner Leary and unanimously voted to accept and place on file.

The Games of Chance State Revenue spreadsheets were reviewed. On a motion by Commissioner Streeter, seconded by Commissioner Urban and unanimously voted to accept them and place on file.

Director Kelley provided a legislative update. HB 348 is in Committee of Conference on Wednesday at 1:00 in LOB 307. He encouraged the commissioners to attend if possible.

New Game Submission:

1. Belmont Aces Monthly Championships – Director Kelley stated this game is an in-house tournament that has been running for several months. The game was reviewed by staff and no issues were found. Discussion ensued. On a motion by Commissioner Streeter, seconded by Commissioner Urban and unanimously voted to approve Belmont Aces Monthly Championships.
2. Belmont 10K Ladder Promotion – Mr. Newman explained this game is an offshoot of Belmont Aces. Discussion ensued. Director Kelley stated this game was reviewed by staff and no issues were found. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to approve Belmont 10K Ladder Promotion.

The Lodge at Belmont made a request for approval to allow table game players to play multiple hands simultaneously. Mr. Newman, on behalf of the The Lodge, explained the advantages to the State of New Hampshire, the charities, and the game operators. He discussed the request and cited blackjack as an example of when the playing of multiple hands would be present. Discussion ensued. On a motion by Commissioner Urban, seconded by Commissioner Streeter and unanimously voted to approve this request with no restrictions.

On a motion by Commissioner Leary, seconded by Commissioner Streeter and unanimously voted to address items/issues from the previously completed Concord Bingo Too, LLC audit at the next Commission meeting, including the role of Michelle Bowen, Charity Coordinator for Concord Bingo Too, LLC.

Action Items:

1. *Bingo/Lucky 7 Bona Fide Charitable Member issues:* Sr. Auditor Dewhurst provided an overview of the responses he received from the questionnaire he sent to the 87 charitable organizations requesting information on payments to bona fide members. The concern is the payments made by charities to non-members. Discussion ensued. Commissioner Presby thanked Mr. Dewhurst for a job well done. On a motion by Commissioner

Presby, seconded by Commissioner Streeter and unanimously voted to table the discussion until the next meeting, at which time the legislative intent of SB 367 and SB 361 will be determined.

2. *Seacoast Poker Room Occupancy Permit follow-up*: Mr. Nishi stated that the Conditional Permit was extended by the town. The Planning Board is set to meet on June 28th. He expects the plans to hard top the parking lot will be completed shortly.

Tabled Item:

1. *Eastern Poker Tour (EPT)-expansion of current concept*: Director Kelley stated that staff previously met with representatives of EPT to review the game. As the game is currently set up, the concern is whether the charities will receive the full 35% of gross, less prizes. Discussion ensued. On a motion by Commissioner Gatsas, seconded by Commissioner Urban and unanimously voted to direct staff to work with EPT to insure the game, when played, conforms to the law. Mr. McCrory stated EPT was willing to make any change necessary to receive approval by the Commission to run the championship.
2. *River Card Room-Freeflow Championship*: Director Kelley stated that staff previously met with representatives of the River Card Room to review the game. As the game is currently set up, again, the concern is whether the charities will receive the full 35% of gross, less prizes. Discussion ensued. On a motion by Commissioner Gatsas, seconded by Commissioner Leary and unanimously voted to direct staff to work with the River Card Room to insure the game, when played, conforms to the law. Mr. Curtis Barry spoke for the River Card Room stating they were willing to make the necessary changes to receive approval by the Commission.

In both cases, Commissioner Gatsas advised staff that if this issue was addressed satisfactorily with both entities, to move forward with the approval process. It would not be necessary for EPT or the River Card Room to appear in front of the Commission again on this matter.

Correspondence:

The agency activity report was reviewed and accepted.

Old Business:

None

New Business:

None

At 12:15 a.m., on a motion by Commissioner Urban, seconded by Commissioner Streeter and by a unanimous roll call vote the Commission voted to adjourn the regular meeting and go into nonpublic session as allowed under RSA 91-A:3, I (b), II(c) and II(j)

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

At 12:20 p.m., on a motion by Commissioner Leary, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to come out of the nonpublic session, permanently seal the nonpublic minutes and move on to discussion and final decisions for the hearings held at 11:00 a.m.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes
Urban	-	Yes

Commissioner Gatsas noted for the record that the Commissioners had not received the monthly account wagering information.

The next meeting is scheduled for Wednesday, June 29, 2011 at 11:00 a.m. in Pharmacy Board's conference room at 57 Regional Drive. The meeting for July has been scheduled for Monday, July 18th – time and place to be announced.

Chairman Connors noted that Commissioner Streeter had just been renominated to serve on the Commission.

The Chairman closed the public meeting at 1:20 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.
Secretary